

1 THERESA A. DUNHAM, ESQ. (SBN 187644)  
2 SOMACH SIMMONS & DUNN  
3 500 Capitol Mall, Suite 1000  
4 Sacramento, CA 95814  
5 Telephone: (916) 325-4000  
6 Facsimile: (916) 325-4010  
7 Email: [tdunham@somachlaw.com](mailto:tdunham@somachlaw.com)

8 Attorneys for Respondents California Rice Commission,  
9 Northern California Water Association on behalf of the  
10 Sacramento Valley Water Quality Coalition, and  
11 San Joaquin Valley Drainage Authority on behalf of the  
12 Westside San Joaquin River Watershed Coalition

13 ALSO ON BEHALF OF:

14 Southern San Joaquin Water Quality Coalition, California  
15 Farm Bureau Federation, San Joaquin County Resource  
16 Conservation District on behalf of the San Joaquin County  
17 and Delta Water Quality Coalition, Arvin-Edison Water  
18 Storage District, Wheeler Ridge-Maricopa Water Storage  
19 District, and Semitropic Water Storage District

20 BEFORE THE

21 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

22 IN RE: PETITION OF CALIFORNIA  
23 SPORTFISHING PROTECTION ALLIANCE  
24 AND CALIFORNIA WATER IMPACT  
25 NETWORK FOR REVIEW OF ACTIONS BY  
26 CALIFORNIA REGIONAL WATER QUALITY  
27 CONTROL BOARD, CENTRAL VALLEY  
28 REGION APPROVING THE SHORT-TERM  
RENEWAL OF THE COALITION GROUP  
CONDITIONAL WAIVER OF WASTE  
DISCHARGE REQUIREMENTS FOR  
DISCHARGES FROM IRRIGATED LANDS  
AND CERTIFICATION OF THE FINAL  
PROGRAM ENVIRONMENTAL IMPACT  
REPORT FOR THE LONG-TERM IRRIGATED  
LANDS REGULATORY PROGRAM,  
CALIFORNIA REGIONAL WATER QUALITY  
CONTROL BOARD, CENTRAL VALLEY  
REGION.

SWRCB/OCC File No. A-2173(a)

**RESPONSE OF AGRICULTURAL  
RESPONDENTS TO CSPA'S  
PETITION FOR REVIEW**

29 In accordance with California Code of Regulations, title 23, section 2050.5(a), the  
30 Southern San Joaquin Valley Water Quality Coalition, California Farm Bureau Federation,

1 California Rice Commission, Northern California Water Association on behalf of the Sacramento  
2 Valley Water Quality Coalition, San Joaquin County Resource Conservation District on behalf of  
3 the San Joaquin County and Delta Water Quality Coalition, San Joaquin Valley Drainage  
4 Authority on behalf of the Westside San Joaquin River Watershed Coalition, East San Joaquin  
5 Water Quality Coalition, Arvin-Edison Water Storage District, Wheeler Ridge-Maricopa Water  
6 Storage District, and Semitropic Water Storage District (collectively hereinafter referred to as  
7 “Agricultural Respondents” or “Respondents”) hereby respond to the Petition of California  
8 Sportfishing Protection Alliance and California Water Impact Network (collectively “CSPA  
9 Petitioners”) for Review of Actions by California Regional Water Quality Control Board, Central  
10 Valley Region Approving Resolution No. R5-2011-0032, Short-Term Renewal of the Coalition  
11 Group Conditional Waiver of Waste Discharge Requirements for Discharges From Irrigated  
12 Lands (“Short-Term Renewal”), and Certification of the Final Program Environmental Impact  
13 Report for the Long-Term Irrigated Lands Regulatory Program (“ILRP EIR”) (“CSPA Petition”).

## 14 **DISCUSSION**

### 15 **I. Introduction**

16 In general, the CSPA Petitioners seek a similar remedy as that sought by the Agricultural  
17 Petitioners<sup>1</sup> in their Petition for Review of the Central Valley Water Board’s actions and inactions  
18 related to its certification of the ILRP EIR. (See CSPA Petition at p. 74; see also Agricultural  
19 Petition at pp. 12, 47.) However, beyond the common remedy sought by the CSPA Petitioners  
20 and Agricultural Petitioners, which is for the State Water Resources Control Board (“State Water  
21 Board”) to vacate the Central Valley Regional Water Quality Control Board’s (“Central Valley  
22

---

23 <sup>1</sup> The Agricultural Petitioners include the Southern San Joaquin Valley Water Quality Coalition, California Farm  
24 Bureau Federation, California Rice Commission, Northern California Water Association on behalf of the Sacramento  
25 Valley Water Quality Coalition, San Joaquin County Resource Conservation District on behalf of the San Joaquin  
26 County and Delta Water Quality Coalition, San Joaquin Valley Drainage Authority on behalf of the Westside San  
27 Joaquin River Watershed Coalition, East San Joaquin Water Quality Coalition, Arvin-Edison Water Storage District,  
28 Wheeler Ridge-Maricopa Water Storage District, and Semitropic Water Storage District (collectively referred to as  
“Agricultural Petitioners”). On July 11, 2011, the Agricultural Petitioners jointly filed a Petition for Review, or  
Alternatively, Request for Own Motion Review of California Regional Water Quality Control Board, Central Valley  
Region, Resolution Nos. R5-2011-0017 and R5-2011-0032 Certifying the Final Program Environmental Impact  
Report for the Long-Term Irrigated Lands Regulatory Program Dated April 7, 2011, and Filing of the Notice of  
Determination (“Agricultural Petition”).

Water Board”) certification of the ILRP EIR and direct the Central Valley Water Board to revise and re-circulate the ILRP EIR after curing its defects, CSPA Petitioners advocate positions that cannot be supported by the law or the Central Valley Water Board’s administrative record associated with this matter. Thus, the State Water Board should grant the common remedy sought by the Agricultural Petitioners and CSPA Petitioners but it should not direct the Central Valley Water Board to vacate the Short-Term Renewal or adopt a Long-Term Irrigated Lands Program (“LTILP”) that resembles the one advocated by CSPA Petitioners.

## **II. The Short-Term Renewal Complies With and Is Consistent With the Law**

Fundamentally, CSPA Petitioners challenge the Central Valley Water Board’s Short-Term Renewal of the Irrigated Lands Waiver in order to put forward their foundational arguments against the use of third party groups such as, for example, the Agricultural Respondents that are water quality coalitions, in any irrigated lands program. Unfortunately for CSPA Petitioners, their arguments have no more merit today than they did in 2003 and 2004 when the State Water Board rejected arguments against the use of third party or Coalition Groups. (*See In the Matter of the Petitions of Agricultural Water Quality Coalition, et al.*, Order WQO 2004-0003 (“Ag Coalition Order”).) In fact, the State Water Board stated its preference with respect to the use of Coalition Groups.

Of utmost concern to this Board is the need for an effective and efficient regulatory program for discharges from irrigated agriculture. We note that in the Central Valley there are an estimated 25,000 farming operations and that, until now, this entire industry has been largely unregulated by the Regional Board. We strongly believe that in light of this number of operations, it is to the benefit of both the regulators and the regulated community to encourage the formation of Coalition Groups. Not only will communication and regulation be more simple with a smaller number of regulated entities, but the monitoring requirements for Groups are much greater and will provide much more useful information. (Ag Coalition Order at p. 9.)

Further, CSPA Petitioners’ specific arguments with respect to the state’s Statement of Policy With Respect to Maintaining High Quality of Waters in California (“Resolution 68-16”), *Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program* (“NPS Policy”), and the public interest have no validity and must be rejected for the reasons provided here.

1           **A.       The Short-Term Renewal Is Consistent With Resolution 68-16**

2           CSPA Petitioners argue that the Central Valley Water Board must require farm-specific  
3 surface and ground water monitoring in order to ensure compliance with Resolution 68-16's  
4 requirements relating to best practical treatment or control ("BPTC"). (CSPA Petition at pp. 4-6.)  
5 However, CSPA Petitioners' allegations regarding compliance with Resolution 68-16 as applied  
6 to the Short-Term Renewal are barred by the doctrine of res judicata and need to be dismissed by  
7 the State Water Board. Even if the State Water Board determines that CSPA Petitioners'  
8 arguments are not barred under the doctrine of res judicata, farm-specific monitoring is not  
9 necessary or required to ensure compliance with the policy's BPTC requirements.

10                   **1.       CSPA Petitioners' Challenge Under Resolution 68-16 Is Barred by**  
11                   **Res Judicata**

12           Application of Resolution 68-16 is triggered when a regional or state water board action  
13 will lower existing high quality water.<sup>2</sup> Many of the waters affected by discharges from  
14 agricultural lands are not high quality waters; for those waters Resolution 68-16 does not apply.  
15 For waters subject to Resolution 68-16, before approving any reduction in water quality, or any  
16 activity that would result in a reduction in water quality, "the Regional Board must first determine  
17 that the change in water quality would not be in violation of State Board Resolution No. 68-16 or  
18 the federal antidegradation policy."<sup>3</sup> This includes consideration of changes that have already  
19 occurred *if they have not previously been reviewed for consistency with those policies.*<sup>4</sup>

20           When the Central Valley Water Board adopted Order No. R5-2006-0053, the underlying  
21 Coalition Group Conditional Waiver of Waste Discharge Requirements for Discharges From  
22 Irrigated Lands to which the Short-Term Renewal applies, it made an extensive finding with  
23 respect to application and compliance with Resolution 68-16. At that time, the Central Valley  
24 Water Board found that discharges authorized by Order No. R5-2006-0053 were consistent with

25           <sup>2</sup> (*In the Matter of Petitions of the County of Santa Clara, et al.*, Order No. WQ 86-8 [Resolution No. 68-16 "sets  
26 forth the circumstances under which *change* to existing high quality water will be allowed."] at p. 28, emphasis  
added.)

27           <sup>3</sup> (*In the Matter of the Petition of Rimmon C. Fay*, Order No. WQ 86-17 at p. 17.)

28           <sup>4</sup> (*In the Matter of Petitions for Reconsideration of Water Quality Certification for the Re-operation of Pyramid Dam*,  
Order WQ 2009-0007 at p. 12.)

1 Resolution 68-16 because the order required discharges to comply with water quality standards  
2 through the implementation of management practices, did not authorize further degradation where  
3 the water was not of high quality, and prohibited the discharge of additional wastes not previously  
4 discharged. (Order No. R5-2006-0053 at p. 6.) The Short-Term Renewal does not alter any of  
5 these requirements, or authorize any increase in discharge. Accordingly, any arguments or  
6 allegations with respect to compliance with Resolution 68-16 needed to occur in conjunction with  
7 the Central Valley Water Board's adoption of Order No. R5-2006-0053—not with its approval of  
8 the Short-Term Renewal.

9 When Order No. R5-2006-0053 was adopted in 2006, CSPA filed a Petition for Review  
10 with the State Water Board. (See Exhibit B to Notice of Entry of Stipulated Judgment By All  
11 Parties ("Stipulated Judgment"), attached hereto as Attachment 1, p. 16:11-14.)<sup>5</sup> The State Water  
12 Board properly dismissed CSPA's petition on Order No. R5-2006-0053. (*Ibid.*) CSPA  
13 subsequently filed a Petition for Writ of Mandate in Sacramento County Superior Court. (See  
14 Attachment 1, Stipulated Judgment, Exhibit B.) However, instead of pursuing its Petition for  
15 Writ of Mandate on Order No. R5-2006-0053, CSPA entered into a Stipulated Judgment with the  
16 Central Valley Water Board and the agricultural Intervenor. (See Attachment 1, Stipulated  
17 Judgment, Exhibit A.) Having freely and voluntarily entered into a Stipulated Judgment to  
18 dispense with its claims against the Central Valley Water Board's adoption of Order  
19 No. R5-2006-0053, which included a cause of action for compliance with state and federal  
20 antidegradation requirements, CSPA Petitioners cannot now raise claims with respect to  
21 compliance with Resolution 68-16 as part of its challenge to the Short-Term Renewal where such  
22 claims are ostensibly directed to Order No. R5-2006-0053. (See Attachment 1, Stipulated  
23 Judgment, Exhibit B at pp. 19:1 – 20:3; see also Attachment 1, Stipulated Judgment, Exhibit A at  
24 pp. 5:20-22.)

25 Specifically, the doctrine of res judicata (claim preclusion) precludes parties or their  
26 privies from relitigating the same cause of action finally resolved in a prior proceeding.

27 \_\_\_\_\_  
28 <sup>5</sup> The Agricultural Respondents hereby request that the State Water Board take official notice of the Stipulated  
Judgment pursuant to the California Code of Regulations, title 23, section 648.2.

1 (Vandenberg v. Superior Court (1999) 21 Cal.4th 815, 828.) The prerequisite elements for  
2 applying the doctrine are: (1) the claim raised in the present action is identical to a claim litigated  
3 in a prior proceeding; (2) the prior proceeding resulted in a final judgment on the merits; and  
4 (3) the party against whom the doctrine is being asserted must have been a party or in privity with  
5 a party to the prior proceeding. (People v. Barragan (2004) 32 Cal.4th 236, 253; Brinton v.  
6 Bankers Pension Services, Inc. (1999) 76 Cal.App.4th 550, 556.)

7 Because the Short-Term Renewal did not materially alter the substance of the 2006 permit  
8 or its findings, the doctrine of res judicata precludes CSPA Petitioners from bringing the same  
9 arguments against the Central Valley Water Board asserting the same claims it alleged in the  
10 earlier action that resulted in the Stipulated Judgment. The doctrine gives conclusive effect to the  
11 Stipulated Judgment in subsequent litigation involving the same claims. (Louie v. BFS Retail &  
12 Commercial Operations, LLC (2009) 178 Cal.App.4th 1544, 1559 [the entry of a stipulated  
13 judgment is a final judgment on merits].) Accordingly, the State Water Board must dismiss  
14 CSPA Petitioners' claims with respect to the Short-Term Renewal's compliance with  
15 Resolution 68-16.

16 **2. Even if Not Barred by Res Judicata, the Short-Term Renewal Is**  
17 **Consistent With the Requirements in Resolution 68-16 With Respect**  
**to BPTC**

18 Notwithstanding the fact that CSPA Petitioners' arguments are barred, the Short-Term  
19 Renewal is consistent with Resolution 68-16. Specifically, Resolution 68-16 states that

20 [a]ny activity which produces or may produce a waste or increased volume or  
21 concentration of waste and which discharges or proposes to discharge to existing  
22 high quality waters will be required to meet waste discharge requirements which  
23 will result in the *best practicable treatment or control* of the discharge necessary  
24 to assure that (a) a pollution or nuisance will not occur and (b) the highest water  
quality consistent with maximum benefit to the people of the State will be  
maintained. (Resolution 68-16 at p. 1, emphasis added.)

25 In other words, dischargers must employ or use BPTC when discharging, or proposing to  
26 discharge, to high quality waters. (See *In the Matter of the Petition of San Luis Obispo Gold and*  
27 *Country Club*, Order WQ 2000-07 at p. 10.) As indicated previously, compliance with  
28

1 Resolution 68-16 must be determined by examining the findings in Order No. R5-2006-0053  
2 because the Short-Term Renewal renewed Order No. R5-2006-0053 in its entirety, and  
3 incorporated by reference the findings from Order No. R5-2006-0053. (Short-Term Renewal at  
4 p. 3, ¶ 10.) Finding 25 of Order No. R5-2006-0053 specifically states that where there are high  
5 quality waters, the Central Valley Water Board will require the implementation of management  
6 practices to achieve BPTC, thereby ensuring compliance with Resolution 68-16. Again, these  
7 findings apply specifically to high quality waters – not to many of the water bodies in the Central  
8 Valley that do not enjoy that status.

9 CSPA Petitioners argue that the Central Valley Water Board cannot ensure compliance  
10 with BPTC unless it also mandates farm-specific management plans as well as on-farm  
11 monitoring for surface and ground water. (CSPA Petition at pp. 4-6.) The issue of assuring  
12 compliance is distinct and separate from determining if Order No. R5-2006-0053, and by  
13 extension the Short-Term Renewal, is consistent and compliant with Resolution 68-16. At this  
14 time, the State Water Board's review, absent dismissal, should be limited to determining if Order  
15 No. R5-2006-0053 is consistent with Resolution 68-16. Clearly it is.

16 Further, farm specific management plans and on-farm monitoring are not necessary to  
17 achieve BPTC. Regional watershed-based management plans and monitoring are an appropriate  
18 approach for assessing water quality and any impacts from agricultural dischargers. Under Order  
19 No. R5-2006-0053 and associated monitoring orders, the Monitoring and Reporting Program  
20 plans ("MRPs") must in part determine if discharges from irrigated lands cause or contribute to  
21 exceedances of applicable water quality standards, monitor the effectiveness of management  
22 practices implemented to address exceedances of applicable water quality standards, and  
23 determine which management practices are most effective. (Order No. R5-2006-0053, Amended  
24 Attachment B at pp. 5-6.) Based on the information required to be included in the MRPs, the  
25 Central Valley Water Board can determine if BPTC is being used where there are high quality  
26 waters. If the Central Valley Water Board needs additional information to make this  
27 determination, it may then issue an order pursuant to Water Code section 13267. Under this code  
28 section, the Central Valley Water Board may require Coalitions or individual dischargers to

1 submit technical or monitoring program reports as long as the burden for the report bears a  
2 reasonable relationship to the need for the information. (Wat. Code, § 13267(b)(1).) Thus, there  
3 is no legal or practical reason to require on-farm monitoring to ensure compliance with BPTC.  
4 Instead of being required for BPTC, CSPA Petitioners' arguments simply reflect their policy  
5 preference that the regulatory program for discharges from irrigated lands be applied to farmers  
6 on an individual basis. Concurrently, CSPA Petitioners' arguments also further their ability to  
7 obtain individual farm specific data to use in bringing lawsuits against individual farmers or the  
8 Central Valley Water Board in order to extract attorneys' fees.

9 The State Water Board must dismiss CSPA Petitioners' allegations with respect to  
10 compliance with Resolution 68-16 because (1) the arguments are barred by principles of  
11 res judicata and (2) farm specific management plans and on-farm monitoring are not necessary to  
12 implement Resolution 68-16.

13 **B. The Short-Term Renewal Is Consistent With the State Water Board's NPS**  
14 **Pollution Policy**

15 **1. CSPA Petitioners' Challenge Under the NPS Policy Is Barred by Res**  
16 **Judicata**

17 Like with its claims regarding compliance with Resolution 68-16, CSPA Petitioners'  
18 allegations regarding compliance with the state's NPS Policy are precluded under the doctrine of  
19 res judicata. The Short-Term Renewal, with the exception of certain mitigation measures that are  
20 not relevant here, does not change the existing Irrigated Lands Program as compared to that  
21 adopted in Order No. R5-2006-0053. With its adoption of the Short-Term Renewal, the Central  
22 Valley Water Board renewed the Coalition Group's Conditional Waiver and incorporated all of  
23 the findings from Order No. R5-2006-0053. (Short-Term Renewal at p. 3, ¶ 10.) Thus,  
24 substantively, the Short-Term Renewal Waiver is no different than Order No. R5-2006-0053.  
25 When it adopted Order No. R5-2006-0053, the Central Valley Water Board made a finding that it  
26 was consistent with the NPS Policy. (Order No. R5-2006-0053 at p. 5, ¶ 22.) CSPA challenged  
27 this finding in its Petition to the State Water Board and in its Petition for Writ of Mandate filed in  
28 Sacramento County Superior Court. (See Attachment 1, Stipulated Judgment, Exhibit B at



1 pp. 21:25 – 22:12.) As discussed in section A.1. above, CSPA freely and voluntarily entered into  
2 a Stipulated Judgment with the Central Valley Water Board and agricultural Intervenor with  
3 respect to its claims on Order No. R5-2006-0053. (See Attachment 1, Stipulated Judgment,  
4 Exhibit A at pp. 5:20-22.) Having resolved its claims on that order by way of a Stipulated  
5 Judgment, CSPA Petitioners cannot now revive such claims through the Central Valley Water  
6 Board's Short-Term Renewal of the underlying order. Accordingly, CSPA Petitioners'  
7 allegations with respect to compliance with the NPS Policy must be dismissed.

8 **2. Should the State Water Board Not Dismiss the NPS Policy Claim**  
9 **Outright, the Short-Term Renewal (and Underlying Order**  
10 **No. R5-2006-0053) Complies With the State's NPS Policy**

11 The state's NPS Policy clearly recognizes the important and valuable role that third party  
12 groups can play in implementation programs for the control of nonpoint source pollution  
13 ("NPS"), such as that from irrigated agricultural. (NPS Policy at pp. 8-9.) The NPS Policy also  
14 encourages regional water boards "to be as creative and efficient as possible in devising  
15 approaches to prevent or control NPS pollution." (NPS Policy at pp. 9-10 ["the RWQCBs have  
16 broad flexibility and discretion in using their administrative tools to fashion NPS management  
17 programs, and are encouraged to be as innovative and creative as possible, and, as appropriate, to  
18 build upon third-party programs."].) The standard set forth in the NPS Policy is that "[e]ach  
19 program brought before a RWQCB or SWRCB must be individually judged on its merits. The  
20 scale against which it will be measured will assess its potential to result in the implementation of  
21 actions to successfully prevent or control discharges of nonpoint sources of pollution."

22 (NPS Policy at p. 9.)

23 Before adopting an NPS implementation program, regional water boards are advised to  
24 determine if "... there is a high likelihood the implementation program will attain the RWQCB's  
25 stated water quality objectives ... [including] consideration of the MPs [management practices]  
26 to be used and the process for ensuring their proper implementation, as well as assessment of MP  
27 effectiveness." (NPS Policy at p. 11.) It is important to note that a high likelihood of attaining  
28 water quality objectives does not necessarily equate to immediate or near-term compliance, but  
indicates that meeting water quality objectives needs to be the goal of the program. The

1 NPS Policy sets forth five key elements for NPS control implementation programs. The five key  
2 elements, and a summary of the Short-Term Renewal's compliance with the key elements, are  
3 provided here.

- 4 • *“KEY ELEMENT 1: An NPS control implementation program's ultimate purpose*  
5 *shall be explicitly stated. Implementation programs must, at a minimum, address NPS*  
6 *pollution in a manner that achieves and maintains water quality objectives and*  
7 *beneficial uses, including any applicable antidegradation requirements.”* (NPS Policy  
8 at pp. 11-12.)

9 In the narrative to Key Element 1, the NPS Policy further states that if the program relies  
10 on the use of management practices (“MPs”), that there should be a strong correlation between  
11 the MPs implemented and the relevant water quality requirements. (NPS Policy at p. 12.) CSPA  
12 Petitioners argue that the Short-Term Renewal does not comply with Key Element 1 because it  
13 fails to comply with Resolution 68-16, and because it does not achieve compliance with water  
14 quality objectives. As discussed previously, the Short-Term Renewal does comply with  
15 Resolution 68-16 and therefore CSPA's argument here has no merit. (See section A., *supra*.)

16 With respect to compliance with water quality objectives, CSPA Petitioners' argument  
17 also has no merit. First, Order No. R5-2006-0053, and therefore by extension the Short-Term  
18 Renewal, requires compliance with water quality standards. (See Order No. R5-2006-0053 at  
19 p. 4, ¶ 20 [“The Conditional Waiver is consistent with applicable Basin Plans because it requires  
20 compliance with water quality standards, as defined in Attachment A, and requires the prevention  
21 of nuisance.”]; see also *id.* at pp. 16-17, ¶ 3 [“Dischargers who are participants in a Coalition  
22 Group shall implement management practices, as necessary, to improve and protect water quality  
23 and to achieve compliance with applicable water quality standards.”].)

24 Second, CSPA Petitioners argue that after seven years the Conditional Waiver has  
25 provided no success in improving water quality. We disagree. For example, in response to  
26 similar claims made by CSPA Petitioners previously, evidence and information was put forward  
27 at the June 10, 2011 Central Valley Water Board hearing for adoption of the Short-Term Renewal  
28 that disputes CSPA Petitioners' broad assertions. In this presentation, Parry Klassen presented a

1 trend analysis of water quality monitoring information prepared by Dr. Lenwood Hall from the  
2 University of Maryland. The trend analysis demonstrates a dramatic reduction in exceedances of  
3 water quality objectives for diazinon and chlorpyrifos. (See Disputing Information presented at  
4 the April 7, 2011 Central Valley Water Board meeting, Parry Klassen, East San Joaquin Water  
5 Quality Coalition (“Klassen Presentation”) attached as Attachment 2 at p. 3.) Specifically, the  
6 analysis shows that in 2005 through 2008 there were eight exceedances of the chlorpyrifos water  
7 quality objective. But after conducting individual site visits to discuss appropriate MPs, the  
8 number of exceedances dropped to zero for chlorpyrifos in 2009 through 2010. (See  
9 Attachment 2, Klassen Presentation at p. 8.) The success shown here clearly indicates that the  
10 “Conditional Waiver” process contained in Order No. R5-2006-0053 is working to achieve water  
11 quality objectives, and is therefore clearly compliant with Key Element 1 of the NPS Policy.

- 12 • *“KEY ELEMENT 2: An NPS control implementation program shall include a*  
13 *description of the MPs and other program elements that are expected to be*  
14 *implemented to ensure attainment of the implementation program’s stated purpose(s),*  
15 *the process to be used to select or develop MPs, and the process to be used to ensure*  
16 *and verify proper MP implementation.”* (NPS Policy at p. 12.)

17 CSPA Petitioners allege that Key Element 2 “effectively requires farm-based water  
18 quality management plans, or their equivalent.” (CSPA Petition at p. 8.) CSPA Petitioners also  
19 argue that to verify MPs, “farms must report on their implementation, including pollutant specific  
20 monitoring of the BMP’s resulting effluent.” (CSPA Petition at pp. 8-9.) Nothing in the  
21 NPS Policy states or implies that Key Element 2 can only be met through farm-specific water  
22 quality management plans and farm-specific monitoring. Contrary to CSPA Petitioners’ claims,  
23 the process set forth in Order No. R5-2006-0053 provides a very specific and successful approach  
24 for assuring the implementation of appropriate MPs. Specifically, Order No. R5-2006-0053  
25 requires that where there is an exceedance of a water quality standard, the Coalition Group is  
26 required to promptly notify the Central Valley Water Board. (Order No. R5-2006-0053,  
27 Amended Attachment B at p. 6, ¶ 6.) If required by the Central Valley Water Board’s Executive  
28 Officer, the Coalition Group must then prepare a Management Plan that evaluates the

effectiveness of existing MPs, identifies additional actions members propose to implement, includes a schedule for monitoring and implementation for additional MPs, and it must be modified as necessary. (*Ibid.*) This watershed-based approach has allowed Coalition Groups and the Central Valley Water Board to prioritize implementation and identification of MPs in areas where there are water quality standard exceedances. Further, it has allowed Coalition Groups to work directly with growers in those watersheds to discuss the need for implementation of additional MPs. Through this approach, significant water quality improvements have been achieved. (See, e.g., Attachment 2, Klassen Presentation at pp. 8-10.) Accordingly, Key Element 2 is achieved through the development and implementation of watershed-based management plans, and individual farm plans are not necessary.

- “*KEY ELEMENT 3: Where a RWQCB determines it is necessary to allow time to achieve water quality requirements, the NPS control implementation program shall include a specific time schedule, and corresponding quantifiable milestones designed to measure progress toward reaching the specified requirements.*” (NPS Policy at p. 13.)

With respect to Key Element 3, CSPA Petitioners mistakenly argue that the Short-Term Renewal is not designed to require compliance with water quality standards, and that compliance schedules are not allowed because there are no provisions in the applicable Water Quality Control Plans authorizing such compliance schedules. (CSPA Petition at p. 9.) First, as discussed previously, Order No. R5-2006-0053 requires compliance with water quality standards and includes a process for the development of management plans when such standards are not met. (See Order No. R5-2006-0053 at pp. 16-17, ¶ 3; see also Order No. R5-2006-0053, Amended Attachment B at p. 6, ¶ 6.) Because Order No. R5-2006-0053 requires compliance with water quality standards, compliance schedules are not necessary and are not included in Order No. R5-2006-0053. Thus, Key Element 3 is satisfied.

Second, CSPA Petitioners’ rendition of applicable law is false and should be dismissed outright. Nothing in the Water Code requires or implies that compliance schedules for discharges subject only to state law must be authorized in Water Quality Control Plans. Water Code

1 section 13242 requires the Central Valley Water Board to adopt a program of implementation  
2 when it adopts water quality standards. To the extent that the Central Valley Water Board has  
3 failed to comply with Water Code section 13242, it calls into question the validity of the water  
4 quality standards adopted. Such failure to comply does not preclude the Central Valley Water  
5 Board from authorizing compliance schedules when it adopts waste discharge requirements or  
6 conditional waivers. (See, e.g., Wat. Code, § 13263(c) [authorizes time schedules with the  
7 adoption of waste discharge requirements].) Further, CSPA Petitioners' arguments apply only to  
8 point source dischargers that are subject to the federal NPDES permit requirements—not  
9 dischargers regulated under California law. (See *In the Matter of Star-Kist Caribe, Inc.* (1990) 3  
10 E.A.D. 172 at p. 24.) Accordingly, CSPA Petitioners' allegations must be dismissed.

- 11 • *“KEY ELEMENT 4: An NPS control implementation program shall include sufficient*  
12 *feedback mechanisms so that the RWQCB, dischargers and other public can*  
13 *determine whether the program is achieving its stated purpose(s), or whether*  
14 *additional or different MPs or other actions are required.”* (NPS Policy at p. 13.)

15 CSPA Petitioners repeat the same arguments with respect to Key Element 4 that they  
16 made with Key Element 2. (CSPA Petition at p. 10.) And like with Key Element 2, CSPA  
17 Petitioners' arguments are wrong. Key Element 4 does not require or imply that farm-specific  
18 management plans and monitoring are necessary. Order No. R5-2006-0053 includes sufficient  
19 feedback mechanisms through the required watershed-based monitoring and management plan  
20 requirements. These two mechanisms combined clearly meet the intent behind Key Element 4.  
21 Accordingly, CSPA Petitioners' arguments here must also be dismissed.

- 22 • *“KEY ELEMENT 5: Each RWQCB shall make clear, in advance, the potential*  
23 *consequences for failure to achieve an NPS control implementation program's stated*  
24 *purposes.”* (NPS Policy at p. 14.)

25 Contrary to CSPA Petitioners' assertions, the Coalitions, and the individual dischargers  
26 subject to Order No. R5-2006-0053, are clearly aware of potential consequences for failure to  
27 comply. The Central Valley Water Board has taken enforcement action against individuals for  
28 not properly obtaining coverage under Order No. R5-2006-0053, and also for failing to comply

1 with water quality objectives. Such enforcement actions have often resulted in the imposition of  
2 significant fines. Accordingly, CSPA Petitioners' arguments have no validity and must be  
3 dismissed.

4 **C. Adoption of the Short-Term Renewal Is Consistent With the Public Interest**  
5 **and Water Code Section 13269**

6 Like with its other arguments, CSPA Petitioners' arguments here are directly related to  
7 their continued opposition to Coalition groups and regional monitoring. CSPA Petitioners offer  
8 no new reasons or justifications as to why the Short-Term Renewal is inconsistent with Water  
9 Code section 13269. In general, Coalitions work in coordination with the Central Valley Water  
10 Board to obtain grower participation, coordinate agricultural outreach, inform dischargers of the  
11 obligations with respect to protecting water quality, conduct monitoring, report monitoring  
12 results, and develop and administer management plans. They may also administer local SB 1938  
13 and Integrated Regional Groundwater Management Plans, and serve many other functions.  
14 Considering the over 25,000 farmers and millions of acres of irrigated agriculture in the Central  
15 Valley, the Coalitions serve a valuable role and accomplish many things for water quality that the  
16 Central Valley Water Board could not accomplish on its own even if it had unlimited resources.  
17 The State Water Board has previously recognized the important role that Coalitions make in  
18 assisting agriculture to improve and protect water quality. (See Ag Coalition Order, p. 9.)  
19 Nothing has changed that should lead the State Water Board to abandon its previous position with  
20 respect to Coalitions. Instead, significant evidence exists to indicate that Coalitions, regional  
21 monitoring, and the development of watershed-based management plans have worked  
22 successfully to improve water quality over the short time that this program has been in place.

23 For example, since the irrigated lands program began in 2003, the Central Valley  
24 agricultural community has spent over \$31 million on monitoring, reporting, outreach and  
25 education, and the Central Valley Water Board's administrative costs. (See Presentation to the  
26 Central Valley Water Board on April 7, 2011, Current Program: How Its Working to Improve  
27 Water Quality Coalitions, Bruce Houdesheldt, Parry Klassen, Mike Wakeman, and Dave Orth  
28 ("Coalition Presentation"), attached hereto as Attachment 3 at p. 3.) Based on the monitoring

1 results, management plans have been prepared for over 100 waterways. (Attachment 3, Coalition  
2 Presentation at p. 6.) Data shows that significant improvements in water quality have occurred.  
3 (See, e.g., Attachment 3, Coalition Presentation at pp. 12-15 [figures showing significant decline  
4 in toxicity, diazinon, and chlorpyrifos]; see also Attachment 3, Coalition Presentation at p. 18 [no  
5 longer finding diazinon exceedances in mainstem tributary].) Considering the significant success  
6 of this program, the State Water Board should dismiss CSPA Petitioners' unfounded allegations  
7 and instead direct the Central Valley Water Board to maintain the existing program..

8 Further, CSPA Petitioners attempt to argue that seven years is a sufficient length of time  
9 and that all receiving waters near agricultural areas should now comply with water quality  
10 standards. To make its point, CSPA Petitioners point to the regulation of stormwater. (CSPA  
11 Petition at p. 14.) However, CSPA Petitioners fail to point out that the regulation of point sources  
12 under the Clean Water Act has been going on since 1972. Even then, after almost 40 years of  
13 direct regulation, point source discharges, including stormwater, are still impairing beneficial  
14 uses. This clearly indicates that achievement of water quality standards takes time and is not  
15 something that will occur overnight, or within the short time that irrigated agriculture has been  
16 subject to a specific regulatory program. It also indicates that CSPA Petitioners' arguments with  
17 respect to the need for individual discharge monitoring does not necessarily equate to immediate  
18 success and compliance with water quality standards. Point source dischargers have individual  
19 discharge monitoring and many still do not comply with water quality standards. Thus,  
20 individual on-farm monitoring is unrelated to ensuring compliance with water quality objectives.

21 Next, to require individual, on-farm monitoring, the Central Valley Water Board would  
22 need to find that the burden, including costs, of requiring such monitoring and reporting bears a  
23 reasonable relationship to the need for the report and the benefits to be obtained. (Wat. Code,  
24 § 13267(b)(1).) There is no evidence in the record that would support the need for requiring  
25 individual, on-farm monitoring as compared to the burden. Thus, regardless of CSPA Petitioners'  
26 arguments, there is no legal justification to support on-farm monitoring.

27 In an attempt to bolster its arguments, CSPA Petitioners refer to the irrigated lands  
28 program in the Central Coast. (CSPA Petition at pp. 11-13.) Arguments with respect to the

1 Central Coast program must be ignored by the State Water Board for several reasons. First,  
2 CSPA Petitioners refer to a Preliminary Draft of Staff Recommendations that have not been  
3 adopted, and in fact are not currently being considered by the Central Coast Water Board. (CSPA  
4 Petition at p. 12.) Second, it is unlikely that the Central Coast program documents are part of the  
5 Central Valley Water Board's administrative record.<sup>6</sup> Regardless, the documents referenced  
6 provide no evidence to support CSPA Petitioners' allegations and must be dismissed.

7 Finally, the Central Valley Water Board made appropriate findings that the Short-Term  
8 Renewal was in the public interest, and such findings are supported by evidence in the record.  
9 (See, e.g., Short-Term Renewal at p. 3, ¶ 12 ["The Water Board finds that a 24 month renewal of  
10 the Conditional Waiver for discharges of waste from irrigated lands is in the public interest  
11 because it would allow the existing water quality efforts to continue while the Board develops the  
12 details of the long-term program."].) CSPA Petitioners provide no mention of evidence to the  
13 contrary. CSPA Petitioners also fail to indicate what action the Central Valley Water Board  
14 should take in the short-term while it develops details for the LTILP, or while it revises the  
15 ILRP EIR. If the Central Valley Water Board's action for the Short-Term Renewal was  
16 determined to be invalid, as suggested by CSPA Petitioners, there would be no systematic  
17 regulatory program in place for discharges from irrigated agriculture; such discharges would not  
18 be authorized; and thousands of growers would be in legal jeopardy for violating the law.  
19 Accordingly, CSPA Petitioners' arguments against the Short-Term Renewal, Coalition Groups,  
20 and regional monitoring have no merit and should be dismissed by the State Water Board.

21 **D. Adoption of the Short-Term Renewal Is Not Inconsistent With State Policy**  
22 **Just Because It Does Not Include Groundwater**

23 CSPA Petitioners make an unsupported statement claiming that the Short-Term Renewal  
24 is inconsistent with water quality standards because it fails to address groundwater pollution.  
25 (CSPA Petition at p. 20.) Following this statement, CSPA Petitioners provide no legal or policy  
26

---

27 <sup>6</sup> The Central Valley Water Board is required to prepare and submit the administrative record along with its response  
28 to the Petitions. The administrative record is not yet available to Agricultural Respondents so it is not possible to  
determine if the documents are in fact included in the Central Valley Water Board's administrative record.



1 argument as to why the Short-Term Renewal is required to address groundwater. (See CSPA  
2 Petition at pp. 20-21.) Due to the lack of supporting argument, the State Water Board must  
3 dismiss this claim for failing to comply with the California Code of Regulations, title 23.

4 Specifically, petitions for review to the State Water Board are required to include, “[a]  
5 statement of points and authorities in support of legal issues raised in the petition, including  
6 citations to documents or the transcript of the regional board hearing where appropriate.” (Cal.  
7 Code Regs., tit. 23, § 2050(a)(7).) The CSPA Petition heading appears to raise a legal issue.  
8 (CSPA Petition at p. 20.) However, the text following the heading provides no argument or  
9 discussion that is relevant to the legal issue raised. Thus, the CSPA Petition does not comply  
10 with the California Code of Regulations, title 23, section 2050.

11 Further, the Short-Term Renewal provides the Central Valley Water Board time to  
12 develop details for the LTILP. The Central Valley Water Board has stated on numerous  
13 occasions that the LTILP will address discharges of waste from irrigated lands to groundwater.  
14 The appropriateness of requirements associated with groundwater should be discussed in  
15 conjunction with adoption of waste discharge requirements intended to implement the LTILP –  
16 not the Short-Term Renewal. Accordingly, the State Water Board must dismiss CSPA  
17 Petitioners’ allegations here.

### 18 **III. CSPA Petitioners’ California Environmental Quality Act Arguments Are Flawed**

#### 19 **A. CSPA Petitioners’ Allegations Regarding the ILRP EIR’s Compliance With** 20 **the California Environmental Quality Act’s Procedural and Substantive** 21 **Requirements Are Flawed and Misinterpret the California Environmental** 22 **Quality Act’s Basic Statutory Requirements**

23 Many of CSPA Petitioners’ allegations questioning the validity of the ILRP EIR and its  
24 compliance with the California Environmental Quality Act’s (“CEQA”) procedural and  
25 substantive requirements are, generally, correct; the ILRP EIR does not comply with CEQA.<sup>7</sup>  
26 However, certain specific CEQA allegations made by CSPA Petitioners are flawed and  
27 misinterpret basic statutory requirements.

28 <sup>7</sup> No comments within this Response to CSPA’s Petition negate the allegations made in the Agricultural Petition.  
All parties who submitted the Agricultural Petition maintain the allegations made therein.

1                   **1.       CEQA’s General Requirements for Alternatives and Mitigation**  
2                   **Measures**

3                   In enacting CEQA, the Legislature declared its intention that all public agencies  
4 responsible for regulating activities affecting the environment give prime consideration to  
5 preventing environmental damage when carrying out their duties. (Pub. Resources Code,  
6 § 21000(g).) CEQA requires the preparation of an Environmental Impact Report (“EIR”) in order  
7 to identify the significant effects on the environment of a project, so that measures to mitigate or  
8 avoid those effects, or alternatives that avoid those effects, can be devised. (Pub. Resources  
9 Code, §§ 21002.1(a), 21060.) The central purpose of an EIR is to identify the significant  
10 environmental effects of the proposed project, and to identify ways of avoiding or minimizing  
11 those effects through the imposition of feasible mitigation measures or the selection of feasible  
12 alternatives. (Pub. Resources Code, §§ 21002, 21002.1(a), 21061.) California Code of  
13 Regulations, title 14 (“CEQA Guidelines”), section 15126.2, requires that the EIR identify the  
14 significant environmental impacts of the project, including direct and indirect impacts. CEQA  
15 Guidelines section 15126.4 requires that the EIR describe feasible measures that can minimize  
16 significant adverse impacts of the project.

17                  Although CSPA Petitioners agree with the intent and purpose of CEQA (see CSPA  
18 Petition at pp. 23-24), CSPA Petitioners misstate the statutory requirements for project  
19 alternatives and mitigation measures. CSPA Petitioners state “CEQA requires public agencies to  
20 avoid or reduce environmental damage when “feasible” by requiring “*environmentally superior*”  
21 *alternatives* and *all* feasible mitigation measures.” (CSPA Petition at p. 23, ¶¶ 22-24, emphasis  
22 added.) To bolster this statement, CSPA Petitioners cite section 15002(a)(2) and (3) of the  
23 CEQA Guidelines as well as two cases, *Berkeley Keep Jets Over the Bay Committee v. Board of*  
24 *Port Com’rs* (2001) 91 Cal.App.4th 1344 and *Citizens of Goleta Valley v. Board of Supervisors*  
25 (1990) 52 Cal.3d 553 (“*Goleta Valley*”). As discussed below, these cases do not support CSPA  
26 Petitioners’ reading of the CEQA Guidelines, as CEQA does not require all project alternatives to  
27 be “environmentally superior” or an EIR to contain each and every feasible mitigation measure.  
28 Rather, CEQA requires an EIR to include a reasonable range of alternatives as well as feasible

1 mitigation measures that will lessen the significant impact. (Pub. Resources Code, § 21002;  
2 CEQA Guidelines, § 15002(a)(3); *Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30,  
3 41 (“*Sierra Club I*”).)

## 4                   **2.       The ILRP EIR’s Reliance on the Project Objectives Developed During** 5                   **the Stakeholder Process Does Not Violate CEQA**

6           CSPA Petitioners attempt to construct a CEQA cause of action relating to the  
7 development of the project’s objectives. CSPA Petitioners fault the ILRP EIR’s reliance on the  
8 public stakeholder process, a process in which CSPA Petitioners’ participation was welcome.  
9 CSPA Petitioners’ choice to participate in a limited manner does not equate to flawed or biased  
10 project objectives. (See CSPA Petition at pp. 25-26.) Further, CEQA does not dictate the manner  
11 in which project objectives are to be developed. If anything, by developing the objectives in a  
12 public process, the project’s objectives further the intent of CEQA. (See *Goleta Valley, supra*,  
13 52 Cal.3d 553, 570; *Laurel Heights Improvement Ass’n. v. Regents of University of California*  
14 (1988) 47 Cal.3d 376 (“*Laurel Heights I*”) [informed decision making and public participation are  
15 fundamental cornerstones of the CEQA process].)

## 16                   **3.       An EIR Must Include a Reasonable Range of Alternatives and All** 17                   **Alternatives Are Governed By the Rule of Reason**

18           CEQA mandates a lead agency to adopt feasible alternatives or feasible mitigation  
19 measures that can substantially lessen the project’s significant environmental impacts. (Pub.  
20 Resources Code, § 21002; CEQA Guidelines, §§ 15002(a)(3), 15126.6(a); *Sierra Club I, supra*,  
21 222 Cal.App.3d at p. 41.) For that reason, “[t]he core of an EIR is the mitigation and alternatives  
22 sections.” (*Goleta Valley, supra*, 52 Cal.3d at p. 564.) “The purpose of an environmental impact  
23 report is to identify the significant effects on the environment of a project, to identify alternatives  
24 to the project, and to indicate the manner in which those significant effects can be mitigated or  
25 avoided.” (Pub. Resources Code, § 21002.1(a); see also § 21061.)

26           The EIR must “describe a range of reasonable alternatives to the project, or to the location  
27 of the project, which would feasibly attain most of the basic objectives of the project, and  
28 evaluate the comparative merits of the alternatives.” (CEQA Guidelines, § 15126.6(a).) The

1 alternatives discussion must focus on alternatives that avoid or substantially lessen any significant  
2 effects of the project. (CEQA Guidelines, § 15126.6(b); *Goleta Valley, supra*, 52 Cal.3d at p. 556  
3 [EIR must consider alternatives that “offer substantial environmental advantages”].) The range  
4 must be sufficient “to permit a reasonable choice of alternatives so far as environmental aspects  
5 are concerned.” (*San Bernardino Valley Audubon Soc’y v. County of San Bernardino* (1984)  
6 155 Cal.App.3d 738, 750; see also *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4th  
7 1212, 1217-18, 1222 (“*Sierra Club II*”) [EIR that only considered two alternatives for less  
8 development was not a range of reasonable alternatives].) Although no rule governs the number  
9 of alternatives that must be considered, the range is governed by the “rule of reason.” (CEQA  
10 Guidelines, § 15126.6(f); *Marin Municipal Water District v. KG Land California Corp.* (1991)  
11 235 Cal.App.3d 1652, 1664 [“CEQA establishes no categorical legal imperative as to the scope of  
12 alternatives to be analyzed in an EIR”].) The range of alternatives must be selected and discussed  
13 in a manner that allows for meaningful public participation and informed decision-making.  
14 (*Marin Municipal Water District, supra*, 235 Cal.App.3d at p. 1664.) The fact that CEQA does  
15 not require a specific number of alternatives does not excuse an agency’s failure to present any  
16 feasible, less environmentally damaging options to a proposed project. (See *Sierra Club II*,  
17 *supra*, 10 Cal.App.4th at pp. 1217-18, 1222 [EIR that only considered two alternatives for less  
18 development was not a range of reasonable alternatives].)

19 In addition to a reasonable range of alternatives, those alternatives evaluated within the  
20 EIR must be “capable of being accomplished in a successful manner within a reasonable period of  
21 time, taking into account economic, environmental, legal, social, and technological factors,” as  
22 well as feasibly accomplishing *most* of the basic objectives of the project and avoiding or  
23 substantially lessening *one or more* of the significant effects. (CEQA Guidelines, §§ 15126.6(c),  
24 15364; see *Goleta Valley, supra*, 52 Cal.3d at p. 566.) The determination of whether an  
25 alternative is feasible is made in two stages. (See *Mira Mar Mobile Community v. City of*  
26 *Oceanside* (2004) 119 Cal.App.4th 477, 489-490; *California Native Plant Society v. City of Santa*  
27 *Cruz* (2009) 177 Cal.App.4th 957, 981 (“*Native Plant Society*”); CEQA Guidelines,  
28 § 15126.6(c).) The first step involves identifying a range of alternatives that will satisfy basic

1 project objectives while reducing significant impacts. (*Ibid.*) Alternatives that are not  
2 “potentially feasible” are excluded at this stage as there is no point in studying alternatives that  
3 cannot be implemented. (*Ibid.*) In the second stage, the final decision on the project, the agency  
4 evaluates whether the alternatives are actually feasible. (*Native Plant Society, supra*,  
5 177 Cal.App.4th at p. 981; see CEQA Guidelines, § 15091(a)(3).) At this point, the agency may  
6 reject as infeasible alternatives that were identified in the EIR as potentially feasible. (*Native*  
7 *Plant Society, supra*, 177 Cal.App.4th at p. 981.)

8 CSPA Petitioners find fault with the ILRP EIR’s analysis of the five alternatives,  
9 specifically faulting the lack of analysis of and information on types of management practices,  
10 implementation of management practices, and monitoring requirements.<sup>8</sup> (CSPA Petition at  
11 pp. 33, 34, 52, 62, 65 [“The PEIR lists a handful of likely measures. This list is incomplete.”].)  
12 However, an EIR’s discussion of alternatives must be reasonably detailed, but not exhaustive. (*In*  
13 *re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008)  
14 43 Cal.4th 1143, 1163 [“An EIR need not consider every conceivable alternative to a project or  
15 alternatives that are infeasible.”]; CEQA Guidelines, § 15126.6(a).) The key issue is whether the  
16 alternatives discussion encourages informed decision-making and public participation. (*Laurel*  
17 *Heights I, supra*, 47 Cal.3d at p. 404.) Given the details included within the ILRP EIR for each  
18 alternative and the fact that each order will undergo additional environmental review, if  
19 warranted, the level of detail included within the ILRP EIR for the four alternatives identified,  
20 excluding the No-Project Alternative, is appropriate. (Irrigated Lands Regulatory Program Draft  
21 Program Environmental Impact Report (July 2010) at pp. 2-4 [“Subsequent activities in the  
22 program will be examined in light of the draft PEIR to determine whether an additional  
23 environmental document must be prepared.”].)

24 Further, throughout the CSPA Petition, CSPA Petitioners attack the four main alternatives  
25 by alleging a failure to require a detailed analysis of management measures and practices

26  
27 <sup>8</sup> While Agricultural Petitioners criticized the lack of analysis for the alternative identified as staff’s preferred  
28 alternative, they did not find fault with the discussion provided on the five alternatives, with the exception of the  
no project alternative, that were included in the ILRP EIR. (See Agricultural Petition at pp. 20:10 – 28:43, 31:5 –  
32:10.)

1 employed per farm. (CSPA Petition at p. 65.) The level of detail requested by CSPA Petitioners  
2 is prohibited by the Porter-Cologne Water Quality Act ("Porter-Cologne"). The Central Valley  
3 Water Board does not have the statutory authority to mandate specific management practices.  
4 (Wat. Code, § 13360(a).) The Central Valley Water Board has the authority to adopt water  
5 quality control plans, water quality objectives to "ensure the reasonable protection of beneficial  
6 uses," waste discharge requirements, and waivers of waste discharge requirements. (Wat. Code,  
7 §§ 13240, 13241, 13242, 13263, 13269.) However, it cannot dictate the management and  
8 business practices undertaken by a regulated party to reach the applicable discharge goal.  
9 Specifically, the Water Code states:

10 No waste discharge requirement or other order of a regional board or the state  
11 board or decree of a court issued under this division shall specify the design,  
12 location, type of construction, or particular manner in which compliance may be  
13 had with that requirement, order, or decree, and the person so ordered shall be  
permitted to comply with the order in any lawful manner. (Wat. Code,  
§ 13360(a).)

14 Given Porter-Cologne's prohibition on specifying the manner of compliance, such specifics could  
15 not be included within the ILRP EIR. Therefore, the level of detail included was proper.

#### 16 **4. CSPA Petitioners Misstate CEQA's Requirements for** 17 **Environmentally Superior Alternatives**

18 Notwithstanding the statutory language and case law regarding project alternatives, CSPA  
19 Petitioners attempt to add its own requirements by stating that alternatives included within the  
20 ILRP EIR must *all* be "environmentally superior." (CSPA Petition at p. 23:23.) CEQA directs  
21 agencies to include a reasonable range of alternatives for evaluation within the EIR. (CEQA  
22 Guidelines, § 15126.6(a).) The alternatives should: (1) attain most of the basic objectives of the  
23 project; (2) avoid or substantially lessen any of the significant effects of the project; (3) be  
24 feasible; and (4) be reasonable and realistic. (CEQA Guidelines, § 15126.6(a).) However, CEQA  
25 does not mandate that every alternative must be environmentally superior.

26 According to CEQA Guidelines section 15126.6(f), the range of alternatives required in  
27 an EIR is governed by a "rule of reason" that requires an EIR to set forth *only* those alternatives  
28 necessary to permit a reasoned choice. In addition to a range of alternatives, the EIR must discuss

1 the “No-Project Alternative,” which describes the reasonably foreseeable probable future  
2 conditions if the project is not approved. (CEQA Guidelines, § 15126.6(e).) The CEQA  
3 Guidelines do not prescribe that all alternatives to be considered and evaluated within the EIR  
4 must be “environmentally superior alternatives.” Rather, when the No-Project Alternative is the  
5 environmentally superior alternative, the EIR must also identify an environmentally superior  
6 alternative among the other alternatives. (CEQA Guidelines, § 15126.6(e)(2) [“If the  
7 environmentally superior alternative is the ‘No Project’ alternative, the EIR shall also identify an  
8 environmentally superior alternative among the other alternatives.”].) Given CEQA’s explicit  
9 directive regarding the selection and analysis of project alternatives, CSPA Petitioners’ claims are  
10 erroneous.

##### 11 **5. Alternatives Do Not Have to Obtain All Project Objectives or Be** 12 **Environmentally Advantageous**

13 Within the ILRP EIR, the Central Valley Water Board identified and analyzed various  
14 project alternatives. CSPA Petitioners allege that all such alternatives contain “components that  
15 render them ineffective.” (CSPA Petition at p. 35:10-12.) Specifically, CSPA Petitioners argue  
16 that Alternatives 1 through 4 are invalid and violate CEQA because components of the  
17 alternatives allegedly violate portions of Porter-Cologne and the state’s Antidegradation Policy,  
18 and thereby fail to obtain project objectives and goals. (CSPA Petition at pp. 31-36.) Further,  
19 according to CSPA Petitioners, the alternatives may impact recreation, aesthetics, fish, and public  
20 health. (CSPA Petition at pp. 53-61.) CSPA Petitioners use these arguments in order to posture  
21 Alternative 5 as the only legal and feasible alternative. As with its other arguments, CSPA  
22 Petitioners’ position here is flawed.

23 Valid alternatives do not have to obtain all of the project’s goals. Rather, CEQA  
24 explicitly states viable and valid alternatives include those that would impede to some degree the  
25 attainment of the project objectives. (CEQA Guidelines, § 15126.6(b).) Further, although project  
26 alternatives may have differing degrees of impact, if any, on recreation, aesthetic, fish, and public  
27 health, such impacts do not render the alternatives invalid. CEQA requires the lead agency to  
28 consider the alternatives discussed in an EIR before acting on a project. The agency is *not*

1 *required* to adopt an alternative that may have environmental advantages over the project if  
2 specific economic, social, or other conditions make the alternative infeasible. (Pub. Resources  
3 Code, § 21002.) Therefore, even if an alternative does not achieve every project objective and is  
4 not the most environmentally advantageous, the alternative is still valid. So, contrary to CSPA  
5 Petitioners' assertions, the other three alternatives are valid and may be considered for adoption.

6 **6. The Central Valley Water Board Adopted a Statement of Overriding**  
7 **Considerations In Compliance With CEQA**

8 As discussed herein, CSPA Petitioners incorrectly allege that project alternatives must be  
9 environmentally superior and must include mitigation measures that will eliminate or  
10 substantially lessen all significant effects on the environment. (CSPA Petition at p. 39.)  
11 However, an agency, after weighing a proposed project's benefits against its unavoidable  
12 environmental risks, may find adverse impacts "acceptable" if the benefits outweigh the impacts.  
13 (Pub. Resources Code, § 21081(b); CEQA Guidelines, § 15093(a).) Such a decision triggers a  
14 statement of overriding considerations. (CEQA Guidelines, § 15093.)

15 Throughout its Petition, CSPA Petitioners refrain from mentioning CEQA's provisions on  
16 statements of overriding considerations or the Central Valley Water Board's adoption of such a  
17 statement in June of 2011. (See Irrigated Lands Regulatory Program Attachment C Findings of  
18 Fact and Statement of Overriding Considerations (May 2011).) CEQA, acknowledging projects  
19 such as the present irrigated lands program, allows agencies to approve projects with unavoidable  
20 environmental risks if certain overriding benefits exist. "If the specific economic, legal, social,  
21 technological, or other benefits, including region-wide or statewide environmental benefits, of a  
22 proposal project outweigh the unavoidable adverse environmental effects, the adverse  
23 environmental effects may be considered 'acceptable.' " (CEQA Guidelines, § 15093(a).)

24 Further, "CEQA does not mandate the choice of the environmentally best feasible project  
25 if through the imposition of feasible mitigation measures alone the appropriate public agency has  
26 reduced environmental damage from a project to an acceptable level." (*Laurel Hills Homeowners*  
27 *Assn. v. City Council* (1978) 83 Cal.App.3d 515, 521.) *Cedar Fair, L.P. v. City of Santa Clara*  
28 (2011) 194 Cal.App.4<sup>th</sup> 1150, provides additional authority stating:



1 CEQA does not, indeed cannot, guarantee that [governmental] decisions will  
2 always be those which favor environmental considerations.” (*Bozung v. Local*  
3 *Agency Formation Com.* (1975) 13 Cal.3d 263, 283, 118 Cal.Rptr. 249, 529 P.2d  
4 1017.) “If economic, social, or other conditions make it infeasible to mitigate one  
5 or more significant effects on the environment of a project, the project may  
6 nonetheless be carried out or approved at the discretion of a public agency if the  
7 project is otherwise permissible under applicable laws and regulations.”  
8 (§ 21002.1, subd. (c).) “CEQA recognizes that in determining whether and how a  
9 project should be approved, a public agency has an obligation to balance a variety  
10 of public objectives, including economic, environmental, and social factors and in  
11 particular the goal of providing a decent home and satisfying living environment  
12 for every Californian.” (Cal. Code Regs., tit. 14, § 15021.) While “CEQA  
13 requires the decision-making agency to balance, as applicable, the economic, legal,  
14 social, technological, or other benefits . . . of a proposed project against its  
15 unavoidable environmental risks when determining whether to approve the  
16 project,” “the adverse environmental effects may be considered ‘acceptable,’ ”  
17 “[i]f the specific economic, legal, social, technological, or other benefits . . . of a  
18 proposal project outweigh the unavoidable adverse environmental effects . . . .”  
19 (Cal. Code Regs., tit. 14, § 15093, subd. (a).) (*Cedar Fair, L.P.*, *supra*, 194  
20 Cal.App.4th at p. 1174.)

21  
22 The Central Valley Water Board, through its statement of overriding considerations, determined  
23 that the specific economic, legal, social, technological, or other benefits, including region-wide or  
24 statewide environmental benefits, of the irrigated lands program outweigh any unavoidable  
25 adverse environmental effects. (See Irrigated Lands Regulatory Program Attachment C Findings  
26 of Fact and Statement of Overriding Considerations (May 2011).) Although CSPA Petitioners  
27 may not agree with the determination and may prefer a more “environmentally superior” project,  
28 such actions taken by the Central Valley Water Board comply with CEQA.

## 29 7. CSPA Petitioners Misstate CEQA’s Requirements for Mitigation 30 Measures

31 CSPA Petitioners assert that the ILRP EIR’s mitigation measures are inadequate by failing  
32 to require any farm-specific mitigation measures within each alternative. (CSPA Petition at  
33 p. 39:26-27.)

34 For unavoidable significant environmental effects, Public Resources Code section 21002  
35 requires agencies to adopt feasible mitigation measures in order to substantially lessen or avoid  
36 otherwise significant adverse environmental impacts. (Pub. Resources Code, §§ 21002, 21081(a);  
37 CEQA Guidelines, §§ 15002(a)(3), 15021(a)(2), 15091(a)(1).) The scope of mitigation measures  
38

1 is limited by feasibility and the general statutory intent of mitigation measures. A mitigation  
2 measure's purpose includes: "(a) Avoiding the impact altogether by not taking a certain action or  
3 parts of an action; (b) Minimizing impacts by limiting the degree or magnitude of the action and  
4 its implementation; (c) Rectifying the impact by repairing, rehabilitating, or restoring the  
5 impacted environment; (d) Reducing or eliminating the impact over time by preservation and  
6 maintenance operations during the life of the action; (e) Compensating for the impact by  
7 replacing or providing substitute resources or environments." (CEQA Guidelines, § 15370.)

8 As evidenced above, a mitigation measure aims to "substantially lessen" or "substantially  
9 avoid" otherwise significant impacts and not, as CSPA Petitioners contend, eradicate completely.  
10 Further, any mitigation measures must be feasible, taking into account economic, legal, social,  
11 technological, or other benefits, including region-wide or statewide environmental benefits.  
12 Moreover, "in situations where impacts for which mitigation is known to be feasible, but where  
13 practical considerations prohibit devising such measures early in the planning process . . . the  
14 agency can commit itself to eventually devising measures that will satisfy specific performance  
15 criteria articulated at the time of project approval. Where future action to carry a project forward  
16 is contingent on devising means to satisfy such criteria, the agency should be able to rely on its  
17 commitment as evidence that significant impacts will in fact be mitigated." (*Sacramento Old City*  
18 *Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1028-1029.)

19 While Agricultural Petitioners themselves have challenged the mitigation measures on  
20 other grounds, CSPA Petitioners put forward arguments with respect to mitigation measures that  
21 are not supported by applicable CEQA law or regulations. CSPA Petitioners desire an LTILRP  
22 full of farm-specific mitigation measures. Such desires are improper as the Central Valley Water  
23 Board can address only the impacts caused by the project. The lead agency cannot fashion  
24 mitigation measures to provide a generalized public benefit unrelated to those impacts directly  
25 associated with the project or that would do *more than* fully mitigate the impacts of the project.  
26  
27  
28

1           **B.       Substantial Evidence Exists Within the Record to Support the Adoption of**  
2                   **Alternatives, Such as Alternative 2**

3           CSPA Petitioners contend that the ILRP EIR contains unsupported assumptions regarding  
4 all five alternatives. CSPA Petitioners further contend that the record contains “nothing” to  
5 support the adoption of the alternatives, especially Alternatives 1 and 2. (CSPA Petition at  
6 pp. 29-31.) Specifically, the CSPA Petition states: “[T]he PEIR fails to facilitate the Regional  
7 Board’s selection of a new ILRP because the PEIR is based on a fiction that any program – no  
8 matter how far removed from the discharge locations and no matter how hard it may avoid  
9 documenting and measuring the implementation and effectiveness of BMPs – will result in the  
10 same level of pollution control. That core fiction does not allow for a meaningful comparative  
11 analysis by the Regional Board of the various alternatives.” (CSPA Petition at p. 29:10-15.)

12           Under the substantial evidence test, an EIR’s analysis of an issue is valid if there is *any*  
13 substantial evidence in the record to support it. (See *Laurel Heights I, supra*, 47 Cal.3d at  
14 pp. 407, 419 [the question under the substantial evidence test is not whether there is substantial  
15 evidence to support the conclusions of the opponents of a project; the question is only whether  
16 there is substantial evidence to support the decision of the agency approving the project].) As  
17 defined by the CEQA Guidelines, substantial evidence “means enough relevant information and  
18 reasonable inferences from this information that a fair argument can be made to support a  
19 conclusion, even though other conclusions might also be reached.” (CEQA Guidelines,  
20 § 15384(a).) Substantial evidence includes “facts, reasonable assumptions predicated upon facts,  
21 and expert opinion supported by facts.” (CEQA Guidelines, § 15384(b).)

22           The record for the LTILRP includes substantial evidence, including factual letters and  
23 expert opinion submitted by the public and oral testimony presented during public hearings. The  
24 very evidence alleged by CSPA Petitioners to “not exist” was presented during the public  
25 hearings on April 7, 2011 and June 9, 2011. (See Attachment 3, Coalition Presentation, and  
26 Attachment 2, Klassen Presentation.) As evidenced in these presentations, the Central Valley  
27 Water Board’s files contain “evidence of observable downward trends in ambient water quality  
28

1 conditions related to the existing program” as well as “evidence of any data showing any trends in  
2 pollution reductions.”

3 Although CSPA Petitioners may not agree with the conclusions drawn from the record’s  
4 substantial evidence, disagreement is not grounds for challenging the Central Valley Water  
5 Board’s approval of the project. A court “may not set aside an agency’s approval of an EIR on  
6 the ground that an opposite conclusion would have been equally or more reasonable.” (*Goleta*  
7 *Valley, supra*, 52 Cal.3d at p. 564.) Thus, should the Central Valley Water Board decide to  
8 implement Alternative 2, there is substantial evidence in the record to support such a decision.

### 9 C. Alternative 5 Is Extreme

10 Throughout its Petition, CSPA Petitioners advocate that the Central Valley Water Board  
11 must adopt and implement Alternative 5 because it is the only framework that would be effective  
12 for reducing discharges from irrigated lands. (CSPA Petition at p. 45:3-11.) However, as  
13 admitted to by CSPA Petitioners, Alternative 5 includes excessive monitoring for both surface  
14 and groundwater. (CSPA Petition at p. 45:15-18.) Further, CPSA Petitioners are wrong in its  
15 arguments with respect to the other primary alternatives (i.e., Alternatives 2, 3, and 4).  
16 Specifically, and as indicated previously, Alternative 2 would maintain the existing program for  
17 surface water, and adds in a new component for groundwater. (Irrigated Lands Regulatory  
18 Program Draft Environmental Impact Report (July 2010) at pp. 3-7 – 3-13.) The existing  
19 program has proven to be effective in reducing water quality and therefore is a viable alternative.  
20 The additional components for groundwater are also appropriate and are consistent with the  
21 Central Valley Water Board’s need to protect groundwater. Anything above and beyond what is  
22 included in Alternative 2 is arguably excessive and unnecessary. Thus, the State Water Board  
23 should reject CSPA Petitioners’ arguments with respect to Alternative 5 being the only viable  
24 alternative.

### 25 CONCLUSION

26 Based on these responses, and the evidence in the record, the State Water Board should  
27 summarily reject CSPA Petitioners’ arguments against the Short-Term Renewal. With respect to  
28 CSPA Petitioners’ CEQA claims, the State Water Board should reject many of their arguments

1 claiming Alternative 5 is the only option. Instead, the State Water Board should direct the  
2 Central Valley Water Board to vacate its certification and use of the ILRP EIR, including the  
3 Central Valley Water Board's incorporation of the Mitigation Monitoring and Reporting Program  
4 into Order No. R5-2006-0053 through the Short-Term Renewal for the reasons articulated in the  
5 Agricultural Petition. Further, the State Water Board should direct the Central Valley Water  
6 Board to revise and re-circulate the ILRP EIR after curing the defects identified in the  
7 Agricultural Petition.

8 SOMACH SIMMONS & DUNN  
9 A Professional Corporation

10 DATED: September 14, 2011

11 By:



12 Theresa A. Dunham  
13 Attorneys for Respondents California Rice  
14 Commission, Northern California Water  
Association on behalf of the Sacramento Valley  
Water Quality Coalition, and San Joaquin Valley  
Drainage Authority on behalf of the Westside  
San Joaquin River Watershed Coalition

15 ADDITIONAL COUNSEL OF RECORD:

16 William J. Thomas, Esq. (SBN 67798)  
17 Harriet A. Steiner, Esq. (SBN 109436)  
18 Kimberly E. Hood, Esq. (SBN 229195)  
19 BEST BEST & KRIEGER LLP  
20 400 Capitol Mall, Suite 1650  
21 Sacramento, CA 95814  
Telephone: (916) 325-4000  
Facsimile: (916) 325-4010  
Email: [william.thomas@bbklaw.com](mailto:william.thomas@bbklaw.com);  
[harriet.steiner@bbklaw.com](mailto:harriet.steiner@bbklaw.com); [kimberly.hood@bbklaw.com](mailto:kimberly.hood@bbklaw.com)  
Attorneys for Respondent Southern San Joaquin Valley Water Quality Coalition

22 Diane V. Rathmann, Esq. (SBN 89845)  
23 LINNEMAN, BURGESS, TELLES, VAN ATTA,  
24 VIERRA, RATHMANN, WHITEHURST & KEENE  
1820 Marguerite Street  
P.O. Box 156  
Dos Palos, CA 93620  
25 Telephone: (209) 392-2141  
26 Facsimile: (209) 392-3964  
27 Email: [drathmann@aol.com](mailto:drathmann@aol.com)  
Attorneys for Respondent San Joaquin Valley Drainage Authority

1 Jennifer L. Spaletta, Esq. (SBN 200032)  
2 HERUM CRABTREE  
3 2291 West March Lane, Suite B100  
4 Stockton, CA 95207  
5 Telephone: (209) 472-7700  
6 Facsimile: (209) 472-7986  
7 Email: [jspaletta@herumcrabtree.com](mailto:jspaletta@herumcrabtree.com)  
8 Attorneys for Respondent San Joaquin County Resource  
9 Conservation District on behalf of the San Joaquin  
10 County and Delta Water Quality Coalition  
11

12 Kari E. Fisher, Esq. (SBN 245447)  
13 CALIFORNIA FARM BUREAU FEDERATION  
14 2300 River Plaza Drive  
15 Sacramento, CA 95833  
16 Telephone: (916) 561-5665  
17 Facsimile: (916) 561-5691  
18 Email: [kfisher@cbbf.com](mailto:kfisher@cbbf.com); [photz@cbbf.com](mailto:photz@cbbf.com)  
19 Attorneys for Respondent California Farm Bureau Federation  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 **PROOF OF SERVICE**

2 I am employed in the County of Sacramento; my business address is 500 Capitol Mall,  
3 Suite 1000, Sacramento, California; I am over the age of 18 years and not a party to the foregoing  
4 action.

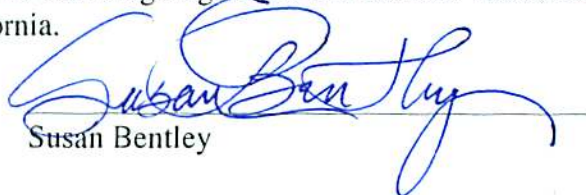
5 On September 14, 2011, I served a true and correct copy of:

6 **RESPONSE OF AGRICULTURAL RESPONDENTS TO CSPA'S PETITION FOR  
7 REVIEW**

8 XXX (by mail) on all parties in said action, in accordance with Code of Civil Procedure  
9 §1013a(3), by placing a true copy thereof enclosed in a sealed envelope, with postage fully paid  
10 thereon, in the designated area for outgoing mail, addressed as set forth below.

11 **SEE ATTACHED SERVICE LIST**

12 I declare under penalty of perjury that the foregoing is true and correct. Executed on  
13 September 14, 2011, at Sacramento, California.

14   
15 Susan Bentley  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**SERVICE LIST**  
**SWRCB/OCC Files A-2173(a) and A-2173(b)**

Rev. 9-13-11

<p>Michael R. Lozeau, Esq.  Christina M. Caro, Esq.  Lozeau Drury LLP  410 12<sup>th</sup> Street, Suite 250  Oakland, CA 94607  <a href="mailto:Michael@lozeaudrury.com">Michael@lozeaudrury.com</a>  <a href="mailto:Christina@lozeaudrury.com">Christina@lozeaudrury.com</a>  <b>VIA US MAIL AND E-MAIL</b></p>	<p>William J. Thomas, Esq.  Harriet A. Steiner, Esq.  Kimberly E. Hood, Esq.  Best Best &amp; Krieger LLP  400 Capitol Mall, Suite 1650  Sacramento, CA 95814  <a href="mailto:William.thomas@bbklaw.com">William.thomas@bbklaw.com</a>  <a href="mailto:Harriet.steiner@bbklaw.com">Harriet.steiner@bbklaw.com</a>  <a href="mailto:Kimberly.hood@bbklaw.com">Kimberly.hood@bbklaw.com</a>  <b>VIA US MAIL AND E-MAIL</b></p>
<p>Ms. Carolee Krieger, President  California Water Impact Network  808 Romero Canyon Road  Santa Barbara, CA 93108  <b>VIA US MAIL ONLY</b></p>	<p>Mr. David Orth, Steering Committee Chairman  Southern San Joaquin Valley Water  Quality Coalition  4886 E. Jensen Avenue  Fresno, CA 93725  <a href="mailto:dorth@krcd.org">dorth@krcd.org</a>  <b>VIA US MAIL AND E-MAIL</b></p>
<p>Mr. Bill Jennings, Executive Director  California Sportfishing Protection Alliance  3536 Rainier Avenue  Stockton, CA 95204  <a href="mailto:deltakeep@me.com">deltakeep@me.com</a>  <b>VIA US MAIL AND E-MAIL</b></p>	<p>David Guy, Esq.  Mr. Bruce Houdesheldt  Northern California Water Association  Sacramento Valley Water Quality Coalition  455 Capitol Mall, Suite 335  Sacramento, CA 95814  <a href="mailto:dguy@norcalwater.org">dguy@norcalwater.org</a>  <a href="mailto:bruceh@norcalwater.org">bruceh@norcalwater.org</a>  <b>VIA US MAIL AND E-MAIL</b></p>
<p>Ms. Pamela C. Creedon, Executive Officer  Central Valley Regional Water Quality  Control Board  11020 Sun Center Drive, Suite 200  Rancho Cordova, CA 95670-6114  <a href="mailto:pcreedon@waterboards.ca.gov">pcreedon@waterboards.ca.gov</a>  <b>VIA E-MAIL ONLY</b></p>	<p>Mr. Timothy A. Johnson  Ms. Roberta Firoved  California Rice Commission  8801 Folsom Boulevard, Suite 172  Sacramento, CA 95826  <a href="mailto:tjohnson@calrice.org">tjohnson@calrice.org</a>  <a href="mailto:rfiroved@calrice.org">rfiroved@calrice.org</a>  <b>VIA US MAIL AND E-MAIL</b></p>



<p>Mr. Clay Rodgers, Asst. Executive Officer Central Valley Regional Water Quality Control Board 1685 E Street Fresno, CA 93706-2020 <a href="mailto:crodgers@waterboards.ca.gov">crodgers@waterboards.ca.gov</a> <b>VIA E-MAIL ONLY</b></p>	<p>Mr. John Brodie, Watershed Coordinator Mr. Mike Wackman San Joaquin County Resource Conservation Dist. San Joaquin County and Delta Water Quality Coalition 3422 W. Hammer Lane, Suite A Stockton, CA 95219 <a href="mailto:rvranglr@yahoo.com">rvranglr@yahoo.com</a> <a href="mailto:info@sjdeltawatershed.org">info@sjdeltawatershed.org</a> <a href="mailto:michaelkw@msn.com">michaelkw@msn.com</a> <b>VIA US MAIL AND E-MAIL</b></p>
<p>Mr. Robert Crandall, Executive Officer Central Valley Regional Water Quality Control Board 415 Knollcrest Drive Redding, CA 96002 <a href="mailto:rcrandall@waterboards.ca.gov">rcrandall@waterboards.ca.gov</a> <b>VIA E-MAIL ONLY</b></p>	<p>Mr. Joseph McGahan, Watershed Coordinator San Joaquin Valley Drainage Authority Westside San Joaquin River Watershed Coalition P.O. Box 1122 Hanford, CA 93232 <a href="mailto:jmcgahan@summerseng.com">jmcgahan@summerseng.com</a> <b>VIA US MAIL AND E-MAIL</b></p>
<p>Mr. Rick Moss, Executive Officer Central Valley Regional Water Quality Control Board 11020 Sun Center Drive, Suite 200 Rancho Cordova, CA 95670-6114 <a href="mailto:rmoss@waterboards.ca.gov">rmoss@waterboards.ca.gov</a> <b>VIA E-MAIL ONLY</b></p>	
<p>Mr. Kenneth D. Landau, Executive Officer Central Valley Regional Water Quality Control Board 11020 Sun Center Drive, Suite 200 Rancho Cordova, CA 95670-6114 <a href="mailto:klandau@waterboards.ca.gov">klandau@waterboards.ca.gov</a> <b>VIA E-MAIL ONLY</b></p>	<p>Diane V. Rathmann, Esq. Linneman, Burgess, Telles, Van Atta, Vierra, Rathmann, Whitehurst &amp; Keene P.O. Box 156 Dos Palos, CA 93620 <a href="mailto:drathmann@aol.com">drathmann@aol.com</a> <b>VIA US MAIL AND E-MAIL</b></p>
<p>Mr. Joe Karkoski Supervising Water Resource Control Engineer Central Valley Regional Water Quality Control Board 11020 Sun Center Drive, Suite 200 Rancho Cordova, CA 95670-6114 <a href="mailto:jkarkoski@waterboards.ca.gov">jkarkoski@waterboards.ca.gov</a> <b>VIA E-MAIL ONLY</b></p>	<p>Jennifer L. Spaletta, Esq. Herum/Crabtree 2291 West March Lane, Suite B100 Stockton, CA 95207 <a href="mailto:jspaletta@herumcrabtree.com">jspaletta@herumcrabtree.com</a> <b>VIA US MAIL AND E-MAIL</b></p>

<p>Mr. Adam Laputz Senior Water Resource Control Engineer Central Valley Regional Water Quality Control Board 11020 Sun Center Drive, Suite 200 Rancho Cordova, CA 95670-6114 <a href="mailto:awlaputz@waterboards.ca.gov">awlaputz@waterboards.ca.gov</a> <b>VIA E-MAIL ONLY</b></p>	<p>Kari E. Fisher, Esq. California Farm Bureau Federation 2300 River Plaza Drive Sacramento, CA 95833 <a href="mailto:kfisher@cbbf.com">kfisher@cbbf.com</a> <a href="mailto:photz@cbbf.com">photz@cbbf.com</a> <b>VIA US MAIL AND E-MAIL</b></p>
<p>Lori T. Okun, Esq. Office of Chief Counsel State Water Resources Control Board P.O. Box 100 Sacramento, CA 95812-0100 <a href="mailto:lokun@waterboards.ca.gov">lokun@waterboards.ca.gov</a> <b>VIA E-MAIL ONLY</b></p>	<p>Mr. Wayne Zipser Mr. Parry Klassen East San Joaquin Water Quality Coalition Stanislaus County Farm Bureau P.O. Box 3070 Modesto, CA 95353-3070 <a href="mailto:Waynez@stanfarmbureau.org">Waynez@stanfarmbureau.org</a> <a href="mailto:pklassen@unwiredbb.com">pklassen@unwiredbb.com</a> <b>VIA US MAIL AND E-MAIL</b></p>
<p>Alex P. Mayer, Esq. Office of Chief Counsel State Water Resources Control Board P.O. Box 100 Sacramento, CA 95812-0100 <a href="mailto:amayer@waterboards.ca.gov">amayer@waterboards.ca.gov</a> <b>VIA E-MAIL ONLY</b></p>	<p>Mr. Herb Jasper Goose Lake Water Quality Coalition P.O. Box 212 New Pine Creek, OR 97635 <a href="mailto:Bry.jasper@oregonstate.edu">Bry.jasper@oregonstate.edu</a> <b>VIA US MAIL AND E-MAIL</b></p>
<p>Patrick E. Pulupa, Esq. Office of Chief Counsel State Water Resources Control Board P.O. Box 100 Sacramento, CA 95812-0100 <a href="mailto:ppulupa@waterboards.ca.gov">ppulupa@waterboards.ca.gov</a> <b>VIA E-MAIL ONLY</b></p>	<p>Mr. Rod Stiefvater Pleasant Valley Water Quality Coalition 2985 Airport Drive Madera, CA 93637 <a href="mailto:rsteifvater@speccrop.com">rsteifvater@speccrop.com</a> <b>VIA US MAIL AND E-MAIL</b></p>
<p>Philip G. Wyels, Esq. Office of Chief Counsel State Water Resources Control Board P.O. Box 100 Sacramento, CA 95812-0100 <a href="mailto:pwlyels@waterboards.ca.gov">pwlyels@waterboards.ca.gov</a> <b>VIA E-MAIL ONLY</b></p>	<p>Ms. Susan Ramos Mr. Orvil McKinnis Westlands Water District P.O. Box 6056 Fresno, CA 93703 <a href="mailto:sramos@westlandswater.org">sramos@westlandswater.org</a> <a href="mailto:omckinnis@westlandswater.org">omckinnis@westlandswater.org</a> <b>VIA US MAIL AND E-MAIL</b></p>
<p>David P. Coupe, Esq. San Francisco Bay Regional Water Quality Control Board 1515 Clay Street, Suite 1400 Oakland, CA 94612 <a href="mailto:dcoupe@waterboards.ca.gov">dcoupe@waterboards.ca.gov</a> <b>VIA E-MAIL ONLY</b></p>	

CourtesyJames Herink, Staff Counsel  
Office of Chief Counsel  
State Water Resources Control Board  
1001 I Street, 22nd Floor [95814]  
P.O. Box 100  
Sacramento, CA 95812-0100  
[jherink@waterboards.ca.gov](mailto:jherink@waterboards.ca.gov)  
**VIA US MAIL AND E-MAIL**

Courtesy Copy:  
Ms. Jeannette L. Bashaw  
Office of the Chief Counsel  
P.O. Box 100  
Sacramento, CA 95812-0100  
[jbashaw@waterboards.ca.gov](mailto:jbashaw@waterboards.ca.gov)  
**VIA US MAIL AND E-MAIL**